

**REMARKS**

Re-examination and reconsideration of the subject application, in view of the amendments above and the remarks below, are respectfully requested.

**Status of Claims**

By the above amendments, claim 1 has been amended, and claims 27-31 have been deleted. Support for the language "wherein the adhesive material is substantially free of polypropylene" in claim 1 may be found in the written description such as at page 2, lines 3-9, in which the copolymers of the present invention are said to be advantageous over polypropylene; and Examples 1 and 2 which show adhesive materials without polypropylene.

Upon entry of the foregoing amendments, claims 1 and 22-26 will remain pending in the application. Each of these claims is under consideration.

**Claim Rejections – 35 U.S.C. § 102**

In the Office Action, claims 27, 30, and 31 were rejected under 35 U.S.C. § 102(b) as being anticipated by Taft (U.S. Patent No. 3,982,051). These claims were also rejected as being anticipated by Bova (U.S. Patent No. 5,445,860). Applicants disagree with the propriety of these rejections. However, in order to expedite prosecution, Applicants have canceled claims 27, 30, and 31. Therefore, the rejections are now moot and should be withdrawn.

Claims 1, 25, and 26 were also rejected under 35 U.S.C. § 102(b) as being anticipated by Taft. For the following reasons, this rejection should be withdrawn.

Taft does not disclose or suggest each of the features of the present invention, as defined by claim 1. For example, Taft fails to disclose or suggest a carpet composition wherein the adhesive material is substantially free of polypropylene. In fact, Taft teaches just the opposite. In contrast to the present invention, Taft teaches using a hot melt composition that contains 10-85 wt% of an atactic polypropylene. Col. 2, lines 58-68. The atactic polypropylene is said to exhibit improved compatibility with conventional tackifiers. Col. 3, lines 6-7. Thus, Taft clearly fails to disclose or suggest each feature of the rejected claims. Accordingly, the rejection should be withdrawn.

Claims 23-31 were rejected under 35 U.S.C. § 102(b) as being anticipated by Peoples (U.S. Patent No. 4,508,771). For the following reasons, this rejection should be withdrawn.

At the outset, it is unclear how claims 23-26, which depend from claim 1, can be separately anticipated by Peoples while claim 1 is not. For the reasons set forth in next section, Peoples does not anticipate or render obvious claim 1. Therefore, it does not anticipate dependent claims 23-26.

As for claims 27-31, they have been canceled. Therefore, the rejection as to these claims is now moot and should be withdrawn.

### **Claim Rejections – 35 U.S.C. §§ 102/103**

Claims 1 and 22 were rejected under 35 U.S.C. § 102(b) as being anticipated by, or in the alternative, under 35 U.S.C. § 103(a) as being unpatentable over Peoples. For the following reasons, this rejection should be withdrawn.

The rejection only discusses the feature of claim 22, but not those of claim 1. Since claim 22 depends from claim 1, it contains all of the features of claim 1. Because the Office Action has not established a *prima facie* case of anticipation of claim 1, the rejection as to both claims is improper and should be withdrawn.

To expedite prosecution, even though no reasons were given for rejecting claim 1, Applicants will discuss Peoples in relation to claim 1 here. Peoples does not disclose or suggest each feature of claim 1. For example, it fails to disclose or suggest using an adhesive material comprising a blend of ethylene methyl acrylate copolymer and another polymer. While Peoples discloses a thermoplastic barrier coating comprising a copolymer of ethylene with an unsaturated ester of a lower carboxylic acid, an olefinic elastomeric component, and a filler; the coating is not disclosed as an adhesive material. In fact, it is said to be a carpet backing. See Abstract (“Highly flexible compositions of matter are useful in the preparation of *carpet backing* are disclosed comprising . . . .”) (emphasis added) and col. 5, lines 21-24 (“[A]pplying the thermoplastic barrier coating onto the lower surface of the carpet fibers so as to securely bind the carpet fibers together *and to provide a carpet backing therefore.*”)

(emphasis added). Therefore, the Peoples thermoplastic barrier coating cannot be equated with Applicants' adhesive material.

Applicants note that Peoples also discloses a thermoplastic adhesive pre-coat. But this composition is not a blend. It is only said to be "a copolymer of ethylene with a vinyl ester of a lower aliphatic carboxylic acid, such as a lower alkyl ester." Col. 5, lines 31-34.

Applicants also note Peoples' disclosure of using an optional melt adhesive. But again, this composition is not a blend. It is only said to be "an ethylene-type polymer or copolymer adhesive." Col. 10, lines 14-22.

Accordingly, for the reasons set forth above, Peoples fails to disclose or suggest each feature of claim 1. As a result, Peoples does not anticipate or render obvious claim 1.

#### **Claim Rejections – 35 U.S.C. § 103**

Claim 29 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Taft or Bova in view of Fink (U.S. Patent No. 5,240,530) or Peoples. This claim has been canceled. Therefore, the rejection is moot and should be withdrawn.

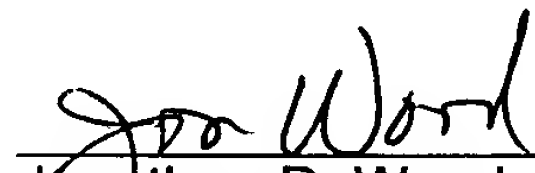
Claim 24 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Taft, as applied to claim 1, in view of Fink or Peoples. However, since Taft fails to disclose or suggest each feature of claim 1 as discussed above, and since Fink and Peoples were not cited to remedy the deficiencies of Taft as it relates to claim 1, there's no *prima facie* case of obviousness of claim 24, and the rejection should be withdrawn.

### Conclusion

In summary, Applicants believe the application to be in condition for allowance. Accordingly, the Examiner is respectfully requested to reconsider the rejection(s), remove all rejections, and pass the application to issuance.


Respectfully submitted,

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